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December 21, 1998

Magalie Salas, Esquire
Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

Re: (a) Redesignation of the 17.7-19.7 GHz
Frequency Band . . . IB Dkt. No. 98-172;
RM-9005, RM-9818
(b) Public Notice, DA 98-2344, November 20, 1998

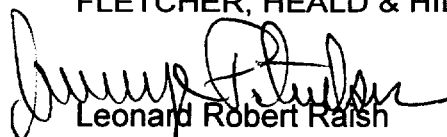
Dear Ms. Salas:

On behalf of the Fixed Wireless Communications Coalition (FWCC), we are filing an original and nine (9) copies of its Comments on the Petition for Interim Relief, filed by the Fixed Point-to-Point Section, Wireless Communications Division of the Telecommunications Industry Association, and on the Emergency Request for Immediate Relief, filed by the Independent Cable & Telecommunications Association in the above-referenced proceeding. These Comments are filed in response to the Public Notice, DA 98-2344, referenced above.

If additional information is required, please communicate with us.

Very truly yours,

FLETCHER, HEALD & HILDRETH, PLC


Leonard Robert Raish

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Counsel for Fixed Wireless
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cc: Chairman William E. Kennard (VIA HAND DELIVERY)
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Commissioner Harold Furchtgott-Roth (VIA HAND DELIVERY)
Commissioner Michael K. Powell (VIA HAND DELIVERY)
Commissioner Gloria Tristani (VIA HAND DELIVERY)
Chief, International Bureau (VIA HAND DELIVERY)
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Chief, Engineer (VIA HAND DELIVERY)
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BEFORE THE

ORIGINAL

Federal Communications Commission

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WASHINGTON, D.C. 20554

DEC 21 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

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Redesignation of the 17.7-19.7 GHz Frequency)
Band, Blanket Licensing of Satellite)
Earth Stations in the 17.7-20.2 GHz and)
27.5-30.0 GHz Frequency Bands,)
and the Allocation of Additional Spectrum)
in the 17.3-17.8 GHz and 24.75-25.25 GHz)
Frequency Bands for Broadcast)
Satellite-Service Use)

IB Docket No. 98-172
RM-9005
RM-9818

To: The Commission

**COMMENTS ON PETITION FOR INTERIM
RELIEF AND EMERGENCY REQUEST
FOR IMMEDIATE RELIEF**

The Fixed Wireless Communications Coalition ("FWCC" of "Coalition")¹ by counsel, submits its comments on the Petition for Interim Relief, filed on November 2, 1998 in the above-referenced proceeding by the Fixed Point-to-Point Section, Wireless Communications Division of the Telecommunications Industry Association (Fixed Section) and on the Emergency Request for Immediate Relief, filed in the proceeding on November 5, 1998, by the Independent Cable & Telecommunications Association

¹The Fixed Wireless Communications Coalition (FWCC) is a broad coalition of diverse entities with vital interest in terrestrial fixed communications. Its membership includes manufacturers of microwave equipment, licensees of terrestrial fixed microwave systems and their associations, communication service providers and their associations. Its membership also includes railroads, public utilities, petroleum and pipeline entities, public safety agencies, the broadcast industry and their respective associations, telecommunications carriers, landline and wireless, local and interexchange, and others.

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(ICTA). These comments are filed in response to the Commission's Public Notice, DA 98-2344, dated November 20, 1998. Both the Petition for Interim Relief and the Emergency Request for Immediate Relief ask the Commission to lift the de facto "freeze" imposed on primary designation on terrestrial fixed systems for which applications are filed after September 18, 1998, the date on which the Notice of Proposed Rulemaking was released in the above-referenced proceeding. The de facto freeze is unjustified, unnecessarily harmful to the fixed services and to the public they serve and should be lifted.

BACKGROUND

In Paragraph 40 of its Notice of Proposed Rule Making (NPRM) in this proceeding, the Commission announced a policy under which terrestrial fixed facilities for which applications are filed after the release of the NPRM, September 18, 1998, for frequencies in bands designated for fixed satellite service use on a primary basis will be authorized on a secondary basis; that is, those facilities would be required to accept interference from satellite systems and, if they interfere with any satellite operation, they would be required to cure it or cease operation.² The bands proposed in the NPRM for

²In the Matter of Redesignation of the 17.7-19.7 GHz Frequency Band, Notice of Proposed Rulemaking, FCC 98-235, released September 18, 1998, 63 Fed. Reg. 54100, October 8, 1998, Para. 40. The pertinent part of Paragraph 40 reads:

... Under this proposal, new terrestrial fixed service applications could continue to be filed and granted after the NPRM release date, but the licensees would have only secondary status in those bands designated for fixed satellite service use on a primary basis .
..... such terrestrial facilities will be required to accept interference from satellite operations and if a

satellite service primary use are 18.3-18.55 and 18.8-19.3 GHz.³ These bands are now used extensively for video distribution and by a great variety of terrestrial narrowband point-to-point communications facilities. The Fixed Section as well as ICTA argued that the policy announced in Paragraph 40 of its NPRM constitutes a "freeze", that the freeze has had an immediate negative effect on the terrestrial fixed services, that the freeze is not justified, it is unnecessary, inconsistent with the public interest and should be lifted. FWCC agrees with the Fixed Section and with ICTA and urges the Commission to revise its policy statement in Paragraph 40 of the NPRM so as to grant the applications involved on a primary basis.

ARGUMENT

FWCC agrees with the Fixed Section and with ICTA that the Commission's policy announced in Paragraph 40 of the NPRM constitutes a de facto freeze⁴ and that the freeze would seriously harm the terrestrial fixed services. Secondary licenses are not acceptable in the fixed service and terrestrial fixed applicants do not have realistic alternatives in the 18 GHz band. First, private video distributors, for example, can only operate in the band segment they now use. Other segments of the 18 GHz band are

terrestrial facility interferes with a satellite earth station, and the terrestrial licensee can not cure it, the terrestrial licensee would be required to discontinue the operation of the interfering facility.

³See NPRM, Para. 29.

⁴If it is not a freeze, as those who have opposed the petitions have argued, it is a summary redesignation of the bands involved from "primary" to "secondary" for the fixed services without prior notice and comment which would, of course, raise serious questions of non-compliance with the Administrative Procedures Act.

not channelized for AM video transmissions. Moreover, as a practical matter, point-to-multi-direction video distribution systems cannot share the same frequencies with point-to-point, two-way digital communications systems. Thus, even if other segments of the 18 GHz band were available to them, video distributors could not operate in those segments under current rules while the freeze is in effect.

Second, although narrowband point-to-point systems (other than private cable), which are now authorized in the band segments which would be reallocated under the Commission's proposal, could use frequencies in other segments of the 18 GHz band (assuming that those sub-bands are not also subject to the freeze), such use would be impractical and highly undesirable. Those bands are now channelized for relatively wide band operations, i.e., 10, 20 and 40 MHz channels, so that assigning such wide bands to 2.5 MHz narrowband systems would be spectrally wasteful and would complicate their re-channelizations, which will become necessary once the Commission segments the band. Thus, the de facto freeze would bring activity in the 18 GHz band, certainly in the band segments proposed for re-designation, to a virtual standstill.

The nature of the services accommodated in this band are not such as to invite speculative applications. Thus, the Commission is not faced here with the likelihood of mass filing of speculative applications. Imposition of a freeze is not necessary to discourage speculative applications.

Finally, continued normal authorization of fixed systems in the 18 GHz band need not preclude or interfere with the development and adoption of band segmentation of the 18 GHz band. The Commission is well aware that the 18 GHz band is now

heavily occupied and recognizes that adoption of a segmentation plan most likely would require relocation of incompatible terrestrial systems, whether applied for before or after the release of the NPRM in the proceeding.

In sum, there is no compelling need to stop normal authorization of terrestrial systems. By contrast, the public interest requires continued normal licensing in the band. The 18 GHz band accommodates a myriad of needs, including competitive video distribution, CARS relays, broadcast auxiliary and backbone and infrastructure links in existing, new, and emerging communication services. The band also accommodates such traditional microwave users as public safety agencies, public utilities, railroad, broadcast, and the general business community. It is inconceivable that the Commission would want to stop in their tracks ongoing activities in the 18 GHz band, particularly since such a drastic action is not necessary for the adoption or implementation of a reasonable band segmentation and sharing plan in the proceeding.

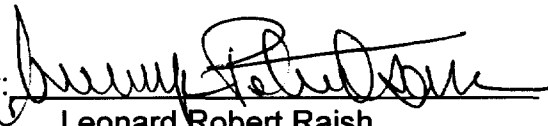
CONCLUSION

For the foregoing reasons, and those discussed therein, the Commission is urged to grant the Petition for Interim Relief filed by the Fixed Section on November 2,

1998, and the Emergency Request for Immediate Relief, filed by ICTA on November 6, 1998.

Respectfully submitted,

FIXED WIRELESS COMMUNICATIONS
COALITION

By: 
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Date: December 21, 1998